



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: H.F. Henderson Industries

File: B-275017

Date: January 17, 1997

Henry F. Henderson, H.F. Henderson Industries, for the protester.
Capt. Sheila D. Isbell and Col. William P. Bowen, Department of the Air Force, for the agency.

Charles W. Morrow, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency selection of higher priced offeror with a low performance risk rating instead of the lower priced offeror with a reasonably based moderate performance risk rating based on prior contract delinquencies was reasonable and consistent with the solicitation's evaluation scheme, which weighted past performance and price equally, where timely delivery was imperative.

DECISION

H.F. Henderson Industries protests the award of a contract to Datacom, Inc. under request for proposal (RFP) No. F09603-96-R-81605, a total small business set-aside issued by the Department of the Air Force, Warner Robins Air Logistics Center, for up to 2900 modification kits for the high/low frequency AN/ARC-190(v)8 radio transmitter/receiver.

We deny the protest.

The RFP advised that the best value award decision would be based on a trade-off between performance risk and price, with performance risk and price being equally weighted. Proposals were to be assigned a performance risk rating of either low, moderate, high, or not applicable.¹ Award was to be made to the lowest-priced

¹The definitions of the performance risk ratings were contained in Air Force Supplement BB-305. A high risk rating is defined as "significant doubt exists, based on the offeror's performance record, that the offeror can perform the proposed effort"; a moderate risk rating is defined as "some doubt exist, based on the offerors performance record, that the offeror can perform the proposed effort"; and a low

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offeror if it received a low performance risk rating, but award could be made to other than the lowest priced offeror if that offeror received other than a low performance risk rating.

The RFP required offerors to submit present and past performance information with their proposals and advised that the government would use data provided by the offeror, as well as information obtained from other sources, to determine a performance risk rating.² In evaluating performance risk, the Air Force reviewed each offeror's submissions as well as contractor information summaries from the Mechanization of Contract Administration System (MOCAS), Contractor Performance Assessment Records System (CPARS), and the administrative contracting officer.

Eleven proposals were submitted. Henderson submitted the lowest-priced offer of \$7.8 million, but received a moderate performance risk rating due to reported late (delinquent) deliveries under some current and prior contracts. Datacom submitted the next lowest-priced offer of \$9.2 million with a low performance risk rating based upon consistent early or timely performance under its contracts. Based on its detailed review of each offeror's past performance record, the Air Force determined that Datacom's higher-priced offer represented the best value because its past performance indicated that it was more likely that the government would receive timely delivery, as compared to Henderson's past performance which indicated a moderate risk that timely deliveries may not be made. Award was made to Datacom on September 24, 1996, and this protest followed.

Henderson protests that the Air Force unreasonably assigned it a moderate performance risk rating and improperly selected a significantly higher-priced proposal.

In a best value procurement, price is not necessarily controlling in determining the offer that represents the best value to the government. Rather, that determination is made on the basis of whatever evaluation factors are set forth in the RFP, with the source selection official often required to make a cost/technical tradeoff to determine if one proposal's technical superiority is worth the higher cost that may be associated with that proposal. In this regard, price/past performance tradeoffs are permitted when such tradeoffs are consistent with the RFP evaluation scheme. Excalibur Systems, Inc., B-272017, July 12, 1996, 96-2 CPD ¶13; Dragon Servs., Inc.,

¹(...continued)

risk rating is defined as "little doubt exists, based on the offeror's performance record, that the offeror can perform the proposed effort."

²No technical proposals were requested.

B-255354, Feb. 25, 1994, 94-1 CPD ¶ 151. Thus, where, as here, an RFP identifies past performance and price as the evaluation criteria and indicates that an offeror with good past performance can expect a higher rating than an offeror without such a record of performance, proposals must be evaluated on that basis, and ultimately the selection official must decide whether or not a higher-priced offeror with the better past performance rating represents the best value to the government. Excalibur Systems, Inc., *supra*. Further, in reviewing an agency's evaluation of an offeror's performance risk, we will examine it to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria. Dragon Servs., Inc., *supra*.

Henderson argues that its moderate performance risk rating was unreasonable because some of the information that the Air Force relied upon was misleading. One contract, identified from MOCAS documents, is assertedly being held in a delinquent status until the government recoups an overpayment of progress payments; another, identified from CPARS documents, had late deliveries which Henderson attributes to defective government technical drawings as evidenced by the equitable adjustment it obtained under that contract; and a third, also identified from CPARS documents as delinquent, is assertedly so dissimilar from this RFP work that it should not have been considered.

Even conceding that Henderson has legitimate excuses for the delinquencies under the three foregoing contracts and discounting them from the past performance evaluation, the Air Force reports, and the record confirms, that Henderson is delinquent on 4 of 13 other open contracts. In contrast, Datacom's performance record indicated that it met or exceeded all contract requirements and had no delinquencies or delays, which supported its low performance risk rating. The Air Force judged that Henderson's demonstrably spotty present and past performance record, particularly its delinquent deliveries, evidenced that there was a risk that Henderson may not make timely deliveries if it was awarded this contract. While Henderson disagrees with its past performance assessment, it has not demonstrated that its moderate performance risk rating was unwarranted.

In making the performance/price trade-off, the Air Force found that the price premium associated with making award to Datacom, instead of Henderson, was justified, given Datacom's low performance risk, based on its consistent timely and early contract deliveries, as compared to Henderson's moderate performance risk, which evidenced a greater potential for untimely deliveries under this contract. The Air Force explained that it was imperative that the kits be delivered on schedule, and that award to an higher-priced offeror with a low performance risk was warranted in these circumstances because of the potential for additional costs to the government due to slips in delivery of these kits and the detrimental impact that delays would have on the mission-essential fleet upgrade. While Henderson

disagrees, we find nothing unreasonable in this determination, which is consistent with the RFP evaluation scheme. Id.

The protest is denied.

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